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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,781	03/25/2005	Johannes Godefridus Gerardus van der Poel	1063-0105PUS1	7702
2292	7590	02/06/2008		
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER WILLIAMS, MONICA L	
			ART UNIT 3644	PAPER NUMBER
			NOTIFICATION DATE 02/06/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

**Office Action Summary****Application No.**

10/506,781

**Applicant(s)**VAN DER POEL, JOHANNES  
GODEFRIDUS GERAR**Examiner**

MONICA L. WILLIAMS

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3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 13-15 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ennis (4,354,291).
3. Regarding claim 13, Ennis discloses a brushing device comprising an oblong brush (48) set in motion by a driving means (56), at least one flexible element (102) fixed directly to a rigid, non-movable structure (50) and being connected at an opposite end to a rigid frame (52) which allows the brush to have a vertical orientation in the absence of a force and a horizontal orientation in the presence of a force. See Ennis figure 12 and 11. Depending on the amount of force applied, the brush is capable of swiveling to a substantially horizontal orientation.
4. Regarding claim 14, Ennis discloses a brushing device wherein the oblong brush (48) consists of a single brush. See Ennis figure 12. Because the independent claim uses the term comprising, more than one brush can exist. In this case, applicant is merely stating that the specific brush consists of a single brush and not that the device itself only has a single brush.
5. Regarding claim 15, Ennis discloses a brushing device comprising an oblong brush (48) set in motion by a driving means (56), at least one flexible element (102)

which allows the brush to have a vertical orientation in the absence of a force and a horizontal orientation in the presence of a force, wherein the oblong brush (48) consists of a single brush, wherein an end of the driving means (56) opposite to the brush (48) is exposed. See Ennis figure 12 and 11. Due to the language that merely states that the end is exposed and does not define what the end is exposed to, the end of the driving means disclosed by Ennis can be considered to be exposed to many things such as a housing, air, a rigid member, etc. Depending on the amount of force applied, the brush is capable of swiveling to a substantially horizontal orientation. Also, because the independent claim uses the term comprising, more than one brush can exist. In this case, applicant is merely stating that the specific brush consists of a single brush and not that the device itself only has a single brush.

6. Regarding claim 18, Ennis discloses a brushing device wherein the at least one flexible element (102) extends along at least one side of the driving means (56). See Ennis figure 12.

7. Regarding claim 19, Ennis disclose a brushing device wherein an end of the driving means (56) opposite to the brush (48) is exposed. See Ennis figure 12. Due to the language that merely states that the end is exposed and does not define what the end is exposed to, the end of the driving means disclosed by Ennis can be considered to be exposed to many things such as a housing, air, a rigid member, etc.

8. Regarding claim 20, Ennis discloses a brushing device wherein the at least one flexible member (102) includes a rigid frame (46), wherein one end of the driving means (56) is fixed to the rigid frame (46). See Ennis figure 12.

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9. Regarding claim 21, Ennis disclose a brushing device wherein the brush (48) and the driving means (56) are coaxially arranged with respect to each other and the brush (48) and the driving means (56) swivel together when acted upon. See Ennis figure 13.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-5, 7-12, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ennis (US 4354291) in view of Korfgan (Us 4614449).

12. Regarding claim 1, Ennis discloses a brushing device comprising an oblong brush (48) having a shaft (50), a driving means (56), a flexible carrying element (102), which allows the brush to have a vertical orientation in the absence of a force and a horizontal orientation in the presence of a force. See Ennis figure 2 and 11. Depending on the amount of force applied, the brush is capable of swiveling to a substantially horizontal orientation. The claim differs from Ennis' brushing device in calling for the brush to have hairs projecting substantially radially from the shaft when the driving device is not driving the oblong brush.

13. Korfgan discloses a brushing device comprising a shaft (3) having hairs (31) projecting substantially radially therefrom when the driving device is not driving the brush. See Korfgan figure 1 and column 2, lines 59-64. Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to modify Ennis' brushing device in view of the teachings of Korgen to include the hairs to project substantially radially from the shaft for the purpose of having an optimum cleaning effect of the hairs (column 3, lines 1-5).

14. Regarding claim 2, Ennis as modified in claim 1 discloses a brushing device comprising an oblong flexible element (102). See figure 1.1.

15. Regarding claim 3, Ennis as modified in claim 1 discloses a brushing device comprising a tubular flexible element (100, 102). See figure 11.

16. Regarding claim 4, Ennis as modified in claim 1 discloses a brushing device comprising a coil spring (102) for the flexible element (100). See figure 11.

17. Regarding claim 5, Ennis as modified in claim 1 discloses a brushing device comprising a driving means (56) rigidly connected to the brush (48). See figure 13.

18. Regarding claim 7, Ennis as modified in claim 1 discloses a brushing device comprising a driving means (56) designed for rotating the brush (48) about its longitudinal axis. See figure 11.

19. Regarding claim 8, Ennis as modified in claim 1 discloses a brushing device comprising a driving means (56) designed for moving the brush (48) in a plane parallel to the longitudinal axis of the brush. See figure 11.

20. Claim 9 differs from Ennis's brushing device as modified in claim 1 in calling for drip-feeding a treatment agent above the brush. Korgen discloses a cleaning brush (1) with a passage above the brush for liquid to flow through onto the brush. See column 1, lines 56-65. Therefore, it would have been obvious to one of ordinary skill in the art at

the time of the invention to modify Ennis's washing apparatus in view of the teachings of Korfgen to include a means for drip-feeding a treatment agent onto the brush for the purpose of providing a cleaning agent to the brush.

21. Regarding claim 10, Ennis as modified in claim 1 discloses a brushing device wherein the flexible element (100) comprises one or more universal couplings.

Universal coupling is defined as "coupling that connects two rotating shafts allowing freedom of movement in all directions" as defined by

<http://www.thefreedictionary.com/coupling>. See figure 11.

22. Regarding claim 11, Ennis as modified in claim 1 discloses a brushing device wherein the oblong brush (48) consists of a single brush. See Ennis figure 11 and 12. Because the independent claim uses the term comprising, more than one brush can exist. In this case, applicant is merely stating that the specific brush that is being described consists of a single brush and not that the device itself only has a single brush.

23. Regarding claim 12, Ennis as modified in claim 1 discloses a brushing device wherein the at least one flexible element (102) is fixed directly to a rigid, non-movable structure (52). See Ennis figure 11.

24. Claim 16 differs from Ennis as modified in claim 1 in calling for the diameter of the brush to be one-half meter. It would have been an obvious matter of design choice to make the diameter one-half meters, since applicant has not disclosed that this diameter solves any stated problem or is for any particular purpose and it appears that

the invention would perform equally well with a diameter less or greater than one-half meters.

25. Regarding claim 17, Ennis as modified in claim 1 discloses a brushing device wherein the carrying means also includes a rigid frame (46) and an end of the driving means (56) facing the brush (48) is rigidly connected to the rigid frame, and the rigid frame (46) overlapping a portion of sides (inner sides) of the driving means (56). See Ennis figure 11 and 12.

### ***Response to Arguments***

26. Applicant's arguments filed 10/29/2007 have been fully considered but they are not persuasive.

27. In response to applicant's arguments that Ennis does not disclose a rigid, non-movable structure or a rigid frame, Ennis does disclose a shaft (52) which can be considered a rigid frame. There is no structure claimed to the frame. Ennis does disclose a rigid, non-movable structure (50) because the structure is rigid, it is considered non-movable. Applicant has not claimed in what way the structure is non-movable.

28. Applicant has argued that the Examiner is contesting the meaning of the word "exposed". This is not correct. Examiner has simply stated that the term has a broad meaning without limitation as to what is actually exposed and can be generally construed in light of the non-existent limitations.

29. In response to applicant's argument that Ennis and Korfgen are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's

endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Ennis and Korfgan are both cleaning brushes which are in the field of the applicant's endeavor.

30. In response to applicant's argument that Korfgan et al does not disclose a drip means, in col.2 line 60 to col.3 line 2 Korfgan et al does disclose that water is discharged onto the bristles. Whether or not the water is under high pressure does not matter, Korfgan et al meets the broad limitations of a drip-feeding means.

31. In response to applicant's argument that the length of the brush bristles is not a simple matter of design choice, it would be obvious to one with ordinary skill in the art to pick a length of bristles that would work best for its intended use, the brush of Ennis could be provided with a diameter of 0.5m in order to give a more detailed cleaning. Examiner maintains that it is a matter of design choice.

32. In response to applicant's argument that the at least one flexible element does not extend along at least one side of the driving means as required by claim 18, Ennis does teach an at least one flexible element (102) above or below the drive means, which is a side of the drive means.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA L. WILLIAMS whose telephone number is

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(571)270-3113. The examiner can normally be reached on Mon to Fri 7:30-5:00, Alternate Friday off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael R. Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael R Mansen/  
Supervisory Patent Examiner, Art Unit 3644

MW 01/22/2008